

FILED

OCT 3 1960

JAMES R. BROWNING, Clerk

IN THE  
**SUPREME COURT OF THE UNITED STATES**

October Term, 1960

No. 84

In the Matter of:

**ALBERT MARTIN COHEN**, Petitioner,

*versus*

**DENIS M. HURLEY**, Respondent.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE  
STATE OF NEW YORK AND THE SUPREME COURT OF THE  
STATE OF NEW YORK, APPELLATE DIVISION, SECOND  
DEPARTMENT, JOINTLY OR IN THE ALTERNATIVE.

**AMICUS CURIAE BRIEF OF STANDING COMMITTEE  
ON PROFESSIONAL GRIEVANCES OF THE  
AMERICAN BAR ASSOCIATION.**

**ROBERT P. HOBSON,**

1805-26 Kentucky Home Life Bldg.,  
Louisville 2, Kentucky,

*Attorney for Standing Committee  
on Professional Grievances of  
the American Bar Association.*

V

IN THE  
**Supreme Court of the United States**

October Term, 1960

No. 84

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IN THE MATTER OF:  
**ALBERT MARTIN COHEN, *Petitioner,***

v.

**DENIS M. HURLEY, *Respondent.***

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**MOTION FOR PERMISSION TO FILE AMICUS CURIAE  
BRIEF ON BEHALF OF STANDING COMMITTEE  
ON PROFESSIONAL GRIEVANCES OF THE  
AMERICAN BAR ASSOCIATION.**

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Comes the Standing Committee on Professional Grievances of the American Bar Association, by counsel, and moves the Court that it be permitted to file its amicus curiae brief in the above action. This case is of utmost importance to the bar at large and to the American Bar Association, and for that reason permission is requested for the filing of this brief.

· **ROBERT P. HOBSON,**  
1905-26 Kentucky Home Life Bldg.,  
Louisville 2, Kentucky,

*Attorney for Standing Committee on  
Professional Grievances of the  
American Bar Association.*

IN THE  
**Supreme Court of the United States**

October Term, 1960.

No. 34

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IN THE MATTER OF:  
**ALBERT MARTIN COHEN, *Petitioner,***

v.

**DENIS M. HURLEY, *Respondent.***

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**AMICUS CURIAE BRIEF OF STANDING COMMITTEE  
ON PROFESSIONAL GRIEVANCES OF THE  
AMERICAN BAR ASSOCIATION.**

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Petitioner, Albert Martin Cohen, appeals to this Court on a writ of certiorari to the Court of Appeals of the State of New York. On such appeal, petitioner seeks review of an order disbaring him from the practice of law for professional misconduct. The misconduct was that he hindered a judicial inquiry by (a) refusing to answer questions which were relevant to the inquiry and (b) refusing to produce records set forth in a subpoena *duces tecum*, which records were relative to the inquiry.

## **JURISDICTION.**

The order of the Court of Appeals of the State of New York was entered April 1, 1960. The petition for certiorari was filed May 7, 1960, and was granted June 6, 1960. The jurisdiction of this Court rests on 28 U. S. C., Sec. 1257(3).

## **ARGUMENT.**

Respondent contends that he cannot be disbarred because he claimed the privilege given him by United States Constitution, Amendment XIV, Section 1, Clause 2:

“ . . . nor shall any state deprive any person of . . . liberty, or property without due process of law . . . ”

This amicus curiae brief is filed by the Standing Committee on Professional Grievances of the American Bar Association in support of the proceeding.

The proceeding in this case was an inquiry with respect to the alleged illegal, corrupt and unethical practices of certain attorneys in Kings County. The rules of the Appellate Division provide that in contingent fee agreements they must be filed with the Court and if he enters into five or more such agreements in any year he must give the Court, in writing, certain particulars. Petitioner filed 228 statements for the years 1954 through '58.

It is contended here by petitioner that his claim of immunity under Section 5 of the Bill of Rights

cannot be the basis for disbarment and that he has been deprived of his liberty and property without due process of law. It is submitted here that neither of these contentions is sound because petitioner in this proceeding is not just an ordinary citizen to whom the immunity would apply, but is a practicing lawyer who procures and holds the authority for his conduct from the State through the very court which imposed the sentence of disbarment.

We assume that it cannot be argued that the inquiry of the Appellate Division was not properly authorized or that petitioner was not subject to this inquiry. These facts being admitted, it is now asserted that petitioner was compellable and should produce for the consideration of the Committee the records which the inquiry called for. His plain refusal to do that not once, but on numerous occasions, renders him subject to the discipline imposed upon him and he may free himself from the effect of this order by complying with the order of the Court at any time.

The American Bar Association, through its Committee on Professional Grievances, hereby supports the action of the Judicial Inquiry Committee and respectfully asks that the judgment of the Court of Appeals of New York be affirmed.

Respectfully submitted,

**ROBERT P. HOBSON,**

Office and Post Office Address,  
1205-26 Kentucky Home Life Bldg.,  
Louisville 2, Kentucky,

*Attorney for Standing Committee on  
Professional Grievances of the  
American Bar Association.*

**PROOF OF SERVICE.**

This is to certify that a copy of this motion and the attached amicus curiae brief on September 19, 1960, was mailed, postage prepaid, to Theodore Kiesel, 15 Broad Street, New York, N. Y., Attorney for Petitioner, and to Denis M. Harley, Borough Hall Building, Brooklyn 1, N. Y., Attorney and Counsel for Respondent.

*Robert P. Nelson*

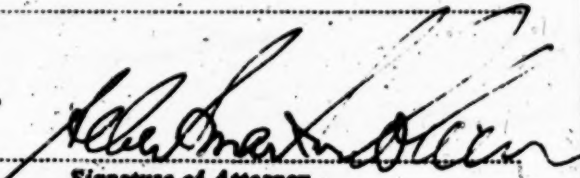
*Attorney for Standing Committee on  
Professional Grievances of the  
American Bar Association.*

8. Date proceeding was commenced.....

9. Number or other designation of the parcels affected.....

10. Statement in compliance with amendment to Rule 3, Special Rules, Appellate Division: Second Department, effective March 2, 1953\*\* The client was recommended by LOUIS I. ROTHENBERG who is personally known to the plaintiff.

Yours, etc.,

  
Signature of Attorney

ALBERT MARTIN COHEN

Attorney

16 Court St., Brooklyn, N. Y.

Office and Post Office Address

\* This statement as to retainer must, within 30 days from the date of the retainer or agreement of compensation be signed by the attorney and filed personally by the attorney or his representatives, or by registered mail, in the office of the clerk of the Appellate Division, Second Judicial Department. It may also be filed by ordinary mail, provided it is accompanied by a self-addressed stamped return postal card containing the date of the retainer and the name of the client. The postal card will be signed by the clerk of the court and mailed to the attorney; and it will serve as a receipt for the filing of the statement of retainer.

\*\* If the action or claim arises from personal injuries or property damage, it shall also be stated whether or not the client was personally known to the attorney prior to the date of injury or property damage, the name and address of any person or persons who referred the client to the attorney or who had any connection with referring the client to the attorney, stating the connection. This shall be stated if the attorney was retained or associated in any way in five or more claims made or actions instituted in the previous calendar year for personal injuries, property damage or both.